ARC 0260C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby amends Chapter 33, "Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality," Iowa Administrative Code.

The purpose of the amendments is to adopt changes to the federal regulations for Prevention of Significant Deterioration (PSD) into Iowa's administrative rules for air quality. The U.S. Environmental Protection Agency (EPA) finalized amendments to the PSD regulations over a three-year period to address the revised national ambient air quality standards (NAAQS) for fine particulate matter that is less than or equal to 2.5 micrometers in diameter ($PM_{2.5}$). EPA issued the final regulation necessary for $PM_{2.5}$ implementation for the PSD program on December 21, 2010.

Through this rule making, the Department is also providing a mechanism to allow industry to request rescission of a PSD permit. The amendment matches federal regulations and will be a benefit to facilities that meet the qualifications for rescission of a PSD permit. Additionally, the Department is adopting an amendment to clarify under what circumstances facilities are required to keep records and the types of records that must be kept. The amendment matches federal regulations and will be a benefit to facilities that must meet record-keeping requirements.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 18, 2012, as **ARC 0097C**. A public hearing was held on May 18, 2012. The Department did not receive any comments at the public hearing. The Department received one written comment before the close of the public comment period on May 18, 2012. The written comment was submitted by EPA Region VII. The submitted comment and the Department's response to the comment are summarized in the public responsiveness summary available from the Department. The Department made changes to the amendments in response to EPA's comments. The changes are described in the explanation of the amendments in Item 1.

To ensure that Iowans have clean air to breathe, the Department is required by federal and state law to develop state implementation plans that manage outdoor air resources so that existing, new, and modified sources of air pollution do not cause or contribute to violations of the NAAQS.

Community, business and industry, agriculture, and transportation activities all contribute to air pollution in the atmosphere. Appropriate plans and programs to address these contributions are the building blocks necessary to ensure that the air Iowans breathe meets health-based air quality standards. One of these building blocks is the federal PSD program that establishes requirements for very large sources of air pollution.

The PSD program is a component of New Source Review (NSR) that includes procedures to ensure that air quality standards are maintained. The NSR program was designed to allow economic growth in harmony with the preservation of existing clean air. Requirements and limits are specified in preconstruction permits to protect the public from the adverse effects which might occur if sources were allowed to operate unregulated.

There are three types of preconstruction air quality permitting that comprise NSR: minor, major, and nonattainment NSR. Minor source preconstruction permitting is for sources that emit less than either 100 or 250 tons per year (tpy) of any one air pollutant depending on the facility's source category. Major source preconstruction permitting is for sources whose plantwide emissions exceed the 100 or 250 tpy threshold for any one air pollutant. Major source preconstruction permitting entails issuance of either a PSD permit or a permit to avoid PSD applicability. Lastly, nonattainment NSR preconstruction permitting occurs within those areas of the state that are not meeting the ambient air quality standards. Iowa currently does not have any nonattainment areas for $PM_{2.5}$.

The Department has administered an EPA-approved state PSD program since 1987. In general, the PSD program requires that an affected facility obtain a PSD permit specifying how the facility

will control air emissions. The permit requires the facility to apply best available control technology (BACT), which is determined on a case-by-case basis, taking into account, among other factors, the cost and effectiveness of the control. Ambient air impact analyses are conducted to determine whether the proposed emission limits, controls, and operating conditions will be sufficient to prevent violations of the NAAQS and unacceptable levels of air quality deterioration.

The NAAQS for $PM_{2.5}$ establish limits on the acceptable exposure and public health impacts of $PM_{2.5}$. $PM_{2.5}$ can easily bypass most of the body's defense mechanisms and become lodged deep in the lungs, where the particles can cause coughing, difficulty breathing, or aggravated asthma; development of chronic bronchitis; nonfatal heart attacks; and premature death in people with heart or lung disease.

EPA created an NAAQS in 1997 for this pollutant in order to better protect the public from the adverse impacts of $PM_{2.5}$ on human health. EPA strengthened the $PM_{2.5}$ NAAQS in 2006 based on reviews of the latest public health information and scientific data, reducing the acceptable level of $PM_{2.5}$ to which humans can be exposed from 65 micrograms per cubic meter of air ($\mu g/m^3$) to 35 $\mu g/m^3$.

An important component to establishing the revised air quality standards for $PM_{2.5}$ is EPA's corresponding changes to the PSD program. EPA finalized the first of its PSD amendments for $PM_{2.5}$ implementation in May 2008 but did not finalize the last of the necessary updates until December 21, 2010. Now that EPA has completed the PSD amendments for $PM_{2.5}$, the Department is proceeding with proposing necessary amendments to Iowa's air quality rules for the PSD program.

This rule making amends Iowa's air quality rules to implement changes to the federal $PM_{2.5}$ regulations that EPA finalized in a phased approach over three years. This rule making addresses two EPA actions:

- On May 16, 2008, EPA publication of final rules setting PSD significant emissions rates for $PM_{2.5}$ and addressing $PM_{2.5}$ precursors; and
- On October 20, 2010, EPA publication of final rules setting PSD increments, significant impact levels (SILs), and significant monitoring concentrations (SMCs) for $PM_{2.5}$.

On December 21, 2010, EPA published federal rules establishing EPA stack testing methods for $PM_{2.5}$. The Department has proposed adoption by reference of these federal rules in a separate rule making published under Notice of Intended Action as **ARC 0087C** in the April 18, 2012, Iowa Administrative Bulletin.

For industry to continue to receive federally acceptable PSD permits from the State, the Department must adopt these $PM_{2.5}$ requirements into administrative rules. On September 8, 2011, EPA published a finding of failure of the State of Iowa to submit a State Implementation Plan (SIP) for the NAAQS for $PM_{2.5}$. EPA's finding became effective on October 11, 2011, and establishes a deadline for EPA to issue a Federal Implementation Plan for $PM_{2.5}$ if the outstanding SIP elements, including adoption of the PSD requirements in this rule making, are not completed. Failure to adopt PSD requirements for $PM_{2.5}$ may result in the loss of the State's PSD program, which would cause the EPA to become the permitting authority and would significantly increase the amount of time required for a facility to obtain a PSD permit.

Additionally, two amendments included in the rule making, the permit rescission and record-keeping provisions, provide regulatory flexibility to affected facilities. Failure to adopt these amendments would have prevented the Department from providing these benefits to industry.

Item 1 amends subrule 33.3(1) to revise the definitions of "baseline area," "baseline date," "enforceable permit condition," "federally enforceable," "regulated NSR pollutant," and "significant" to match the changes EPA made in 40 Code of Federal Regulations (CFR) 51.166 and 52.21 to implement the $PM_{2.5}$ NAAQS. The revised definitions match the federal definitions in 40 CFR 51.166 and 52.21. The Department is also revising references to specific sections of the Clean Air Act to match corrections that EPA made to the CFR.

Since the publication of the Notice of Intended Action, the Department has made changes to the amendment of the definition of "regulated NSR pollutant" based on comments received from EPA Region VII.

First, EPA requested in its comments that the Department make revisions to match the federal language to clarify that EPA has concurrent authority with the Department to make determinations

for $PM_{2.5}$ precursors in areas of the state. The Department agrees that EPA has concurrent authority to make these determinations, and the Department has made the recommended change to numbered paragraph "1" of the definition.

Second, EPA commented on a portion of proposed language describing condensable particulate matter. EPA stated that, although the proposed language matched the federal amendments to the PSD regulations, the language is now obsolete and that, further, the federal provisions do not apply to Iowa's federally approved PSD program. The Department agrees with EPA's comments and has removed the language from numbered paragraph "6" of the definition as EPA suggested. No other changes from the Notice have been made.

Item 2 amends subrule 33.3(3) to adopt by reference EPA's revisions to the ambient air increments to include thresholds for $PM_{2.5}$.

Item 3 amends subrule 33.3(9) to adopt by reference EPA's amendments to the PSD exemptions to incorporate $PM_{2.5}$.

Item 4 amends subrule 33.3(11) to adopt by reference EPA's revisions to the source impact analysis requirements to include $PM_{2.5}$.

Item 5 amends subrule 33.3(16) to adopt by reference EPA's revisions to the requirements for sources impacting federal Class I areas to include $PM_{2.5}$.

Item 6 amends subrule 33.3(18) to revise the "source obligation" provisions to match current federal PSD regulations. This amendment clarifies under what conditions source owners and operators must keep records and the specific records that must be kept. The amendment also adds the federal definition of "reasonable possibility" for purposes of keeping records under subrule 33.3(18). This amendment will allow facilities additional record-keeping flexibility and reduce the record-keeping burden.

Item 7 amends subrule 33.3(20) to revise the provisions for the conditions for permit issuance to match EPA amendments that establish the PSD significance levels for $PM_{2.5}$.

Item 8 adds new subrule 33.3(22) to establish provisions for rescinding a PSD permit. Currently, there is no mechanism in rules for the Department to rescind a PSD permit, even if PSD program requirements no longer apply to a facility. This provision was inadvertently excluded when the Department adopted amendments to PSD rules in 2006. This adopted amendment matches EPA's regulations in 40 CFR 52.21(w).

The complete Jobs Impact Statement prepared by the Department is available from the Department upon request. The following is a summary of the Jobs Impact Statement.

After analysis and review of this rule making, there could be an impact on jobs. However, these amendments are mandated by EPA federal regulations, and the State of Iowa is not requiring additional regulations. The Department will continue to work with stakeholders to minimize any adverse impact on jobs and to maximize any positive impact on jobs.

One of Congress's goals for PSD as set forth in the Clean Air Act was to allow economic growth in harmony with the preservation of existing clean air. Requirements and limits are specified in preconstruction permits to protect the public from adverse effects that might occur if sources were allowed to operate unregulated. The requirements in PSD permits help prevent areas of the state from becoming nonattainment areas. Major sources locating in or undergoing modifications in nonattainment areas must generally meet emissions requirements stricter than those called for under the PSD program. Communities in nonattainment areas attempting to meet the Clean Air Act requirements can face significant challenges that make it very difficult or impossible for businesses to locate or expand in that area. Currently, Iowa does not have any nonattainment areas for $PM_{2.5}$, in part because of the success of the PSD program in preventing air quality from deteriorating. Companies may locate or expand in any area of the state without the significant barriers that would be imposed by $PM_{2.5}$ nonattainment, and this may create a positive jobs impact.

The Department estimated emissions control costs required for the PSD program's BACT provisions. These estimates are based on three companies' tax filings from 2009, 2010, and 2011. These costs ranged from $30,000 to $10 million and included all costs associated with equipment and installation. However, because BACT is also required for total particulate matter (PM) emissions and course particulate matter (PM_{10}) emissions, only one-half to one-third of these very generally estimated costs can be attributed to

$PM_{2.5}$. Additionally, because EPA requires a PSD program for each state, these costs are not unique to Iowa and would likely vary little from state to state.

In addition, the Department estimated costs of preparing PSD permit applications, based on information from consultants that prepare PSD applications for their clients. Total application preparation costs ranged from $25,000 to $100,000. Typically, a project does not go through PSD review for just one pollutant. Costs attributed to $PM_{2.5}$ would be only a portion of the PSD application costs, likely ranging from 15 percent to 50 percent.

The PSD program is a national program imposed through the Clean Air Act, so any company locating a large, new facility or considering a major expansion in any state in the United States will be required to go through PSD review. Although PSD requirements are consistent across states, some of the variables include the cost to apply for a PSD permit and the turnaround time to get a PSD permit.

The Department does not charge a fee for submitting a PSD permit application. Application fees in other states range from several hundred dollars per project to tens of thousands of dollars per project. The Department's no-cost PSD application process may have a positive impact on jobs.

Because companies are allowed to conduct only very limited preparatory construction activities prior to obtaining the PSD permit, it is a significant incentive for the company to receive the PSD permit as quickly as possible. For this reason, the Department's no-cost application and relatively quick turnaround time may be incentives for companies to build or expand in Iowa. This may be a positive jobs impact for industrial jobs.

These amendments are intended to implement Iowa Code subsections 455B.133(1), 455B.133(4), and 455B.133(5) and the U.S. Clean Air Act (CAA) Title I, Part C (CAA §160-169b; U.S.C. §7470-7492).

These amendments will become effective on September 12, 2012.

The following amendments are adopted.

ITEM 1. Amend the following definitions in subrule **33.3(1)**:

"Baseline area" means:

1. Any intrastate area (and every part thereof) designated as attainment or unclassifiable under Section ~~107(d)(1)(D) or (E)~~ 107(d)(1)(A)(ii) or (iii) of the Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact ~~equal to or greater than 1 ug/m3 (annual average) of the pollutant for which the minor source baseline date is established~~ for the pollutant for which the baseline date is established, as follows: equal to or greater than 1 μg/m3 (annual average) for sulfur dioxide (SO_2), nitrogen dioxide (NO_2) or PM_{10}; or equal to or greater than 0.3 μg/m3 (annual average) for $PM_{2.5}$.

2. Area redesignations under Section ~~107(d)(1)(D) or (E)~~ 107(d)(1)(A)(ii) or (iii) of the Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification which establishes a minor source baseline date or is subject to regulations specified in this rule, in 40 CFR 52.21 (PSD requirements), or in department rules approved by EPA under 40 CFR Part 51, Subpart I, and would be constructed in the same state as the state proposing the redesignation.

3. Any baseline area established originally for the total suspended particulate increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments, except that such baseline area shall not remain in effect if the permitting authority rescinds the corresponding minor source baseline date in accordance with the definition of "baseline date" specified in this subrule.

"Baseline date" means:

1. Either "major source baseline date" or "minor source baseline date" as follows:

(a) The "major source baseline date" means, in the case of ~~particulate matter~~ PM_{10} and sulfur dioxide, January 6, 1975~~, and~~; in the case of nitrogen dioxide, February 8, 1988; and in the case of $PM_{2.5}$, October 20, 2010.

(b) The "minor source baseline date" means the earliest date after the trigger date on which a major stationary source or a major modification subject to 40 CFR 52.21 as amended through ~~November 29, 2005,~~ October 20, 2010, or subject to this rule (PSD program requirements), or subject to a department rule approved by EPA under 40 CFR Part 51, Subpart I, submits a complete application under the relevant

regulations. The trigger date for ~~particulate matter~~ PM_{10} and sulfur dioxide is August 7, 1977. For nitrogen dioxide, the trigger date is February 8, 1988. For $PM_{2.5}$, the trigger date is October 20, 2011.

2. The "baseline date" is established for each pollutant for which increments or other equivalent measures have been established if:

(a) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under Section ~~107(d)(i)(D) or (E)~~ 107(d)(1)(A)(ii) or (iii) of the Act for the pollutant on the date of its complete application under 40 CFR 52.21 as amended through ~~November 29, 2005,~~ October 20, 2010, or under regulations specified in this rule (PSD program requirements); and

(b) In the case of a major stationary source, the pollutant would be emitted in significant amounts, or in the case of a major modification, there would be a significant net emissions increase of the pollutant.

Any minor source baseline date established originally for the total suspended particulate increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments, except that the reviewing authority may rescind any such minor source baseline date where it can be shown, to the satisfaction of the reviewing authority, that the emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM_{10} emissions.

"Enforceable permit condition," for the purpose of this chapter, means any of the following limitations and conditions: requirements ~~development~~ developed pursuant to new source performance standards, prevention of significant deterioration standards, emissions standards for hazardous air pollutants, requirements within the SIP, and any permit requirements established pursuant to this chapter, any permit requirements established pursuant to 40 CFR 52.21 or Part 51, Subpart I, as amended through ~~November 29, 2005,~~ October 20, 2010, or under conditional, construction or Title V operating permit rules.

"Federally enforceable" means all limitations and conditions which are enforceable by the Administrator and the department, including those federal requirements not yet adopted by the state, developed pursuant to 40 CFR Parts 60, 61 and 63; requirements within 567—subrules 23.1(2) through 23.1(5); requirements within the SIP; any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I, as amended through ~~November 29, 2005,~~ October 20, 2010, including operating permits issued under an EPA-approved program, that are incorporated into the SIP and expressly require adherence to any permit issued under such program.

"Regulated NSR pollutant" means the following:

1. Any pollutant for which a national ambient air quality standard has been promulgated and any constituents or precursors for such pollutants identified by the Administrator ~~(e.g., volatile organic compounds and NO_x are precursors for ozone);~~:

(a) Volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas;

(b) Sulfur dioxide is a precursor to $PM_{2.5}$ in all attainment and unclassifiable areas;

(c) Nitrogen oxides are presumed to be precursors to $PM_{2.5}$ in all attainment and unclassifiable areas, unless the department demonstrates to EPA's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to the area's ambient $PM_{2.5}$ concentrations;

(d) Volatile organic compounds are presumed not to be precursors to $PM_{2.5}$ in any attainment and unclassifiable areas, unless the department demonstrates to EPA's satisfaction or EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area's ambient $PM_{2.5}$ concentrations;

2. Any pollutant that is subject to any standard promulgated under Section 111 of the Act;

3. Any Class I or Class II substance subject to a standard promulgated under or established by Title VI of the Act; or

4. Any pollutant that otherwise is subject to regulation under the Act as defined in 33.3(1), definition of "subject to regulation."

5. Notwithstanding paragraphs "1" through "4," the definition of "regulated NSR pollutant" shall not include any or all hazardous air pollutants that are either listed in Section 112 of the Act or added

to the list pursuant to Section 112(b)(2) of the Act and that have not been delisted pursuant to Section 112(b)(3) of the Act, unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under Section 108 of the Act.

6. Particulate matter (PM) emissions, $PM_{2.5}$ emissions and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures.

"Significant" means:

1. In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate

- Carbon monoxide: 100 tons per year (tpy)
- Nitrogen oxides: 40 tpy
- Sulfur dioxide: 40 tpy
- Particulate matter: 25 tpy of particulate matter emissions ~~or 15 tpy of PM_{10} emissions~~
- PM_{10}: 15 tpy
- $PM_{2.5}$: 10 tpy of direct $PM_{2.5}$ emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions (unless the department demonstrates to EPA's satisfaction that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to the area's ambient $PM_{2.5}$ concentrations)
- Ozone: 40 tpy of volatile organic compounds or NO_x
- Lead: 0.6 tpy
- Fluorides: 3 tpy
- Sulfuric acid mist: 7 tpy
- Hydrogen sulfide (H_2S): 10 tpy
- Total reduced sulfur (including H_2S): 10 tpy
- Reduced sulfur compounds (including H_2S): 10 tpy
- Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2×10^{-6} megagrams per year (3.5×10^{-6} tons per year)
- Municipal waste combustor metals (measured as particulate matter): 14 megagrams per year (15 tons per year)
- Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tons per year)
- Municipal solid waste landfill emissions (measured as nonmethane organic compounds): 45 megagrams per year (50 tons per year)

2. "Significant" means, for purposes of this rule and in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant not listed in paragraph "1," any emissions rate.

3. Notwithstanding paragraph "1," "significant," for purposes of this rule, means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within ten kilometers of a Class I area~~,~~ and have an impact on such area equal to or greater than 1 $\mu g/m^3$ (24-hour average).

ITEM 2. Amend subrule 33.3(3) as follows:

33.3(3) *Ambient air increments.* The provisions for ambient air increments as specified in 40 CFR 52.21(c) as amended through ~~November 29, 2005,~~ October 20, 2010, are adopted by reference.

ITEM 3. Amend subrule 33.3(9) as follows:

33.3(9) *Exemptions.* The provisions for allowing exemptions from certain requirements for PSD-subject sources as specified in 40 CFR 52.21(i) as amended through ~~May 1, 2007,~~ October 20, 2010, are adopted by reference.

ITEM 4. Amend subrule 33.3(11) as follows:

33.3(11) *Source impact analysis.* The provisions for a source impact analysis as specified in 40 CFR 52.21(k) as amended through ~~November 29, 2005,~~ October 20, 2010, are adopted by reference.

ITEM 5. Amend subrule 33.3(16) as follows:

33.3(16) *Sources impacting federal Class I areas—additional requirements.* The provisions for sources impacting federal Class I areas as specified in 40 CFR 51.166(p) as amended through ~~November 29, 2005,~~ October 20, 2010, are adopted by reference. The following phrases contained in 40 CFR 51.166(p) are not adopted by reference: "the plan may provide that," "the plan shall provide that," "the plan shall provide" and "mechanism whereby."

ITEM 6. Amend subrule 33.3(18) as follows:

33.3(18) *Source obligation.*

a. Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the plan and any other requirements under local, state or federal law.

b. At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, the requirements of subrules 33.3(10) through 33.3(19) shall apply to the source or modification as though construction had not yet commenced on the source or modification.

c. Any owner or operator who constructs or operates a source or modification not in accordance with the application pursuant to the provisions in rule 567—33.3(455B) or with the terms of any approval to construct, or any owner or operator of a source or modification subject to the provisions in rule 567—33.3(455B) who commences construction after April 15, 1987 (the effective date of Iowa's PSD program), without applying for and receiving department approval, shall be subject to appropriate enforcement action.

d. Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The department may extend the 18-month period upon a satisfactory showing that an extension is justified. These provisions do not apply to the time between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

e. Reserved.

f. ~~The~~ Except as otherwise provided in subparagraph (8), the following specific provisions shall apply ~~to~~ with respect to any regulated NSR pollutant emitted from projects at existing emissions units at a major stationary source, other than projects at a source with a PAL, in circumstances ~~in which~~ where there is a "reasonable possibility," within the meaning of subparagraph (8), that a project that is not part of a major modification may result in a significant emissions increase of such pollutant, and the owner or operator elects to use the method for calculating projected actual emissions as specified in subrule 33.3(1), paragraphs "1" through "3" of the definition of "projected actual emissions."

(1) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

1. A description of the project;

2. Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and

3. A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under paragraph "3" of the definition of "projected actual emissions" in subrule 33.3(1), an explanation describing why such amount was excluded, and any netting calculations, if applicable.

(2) No less than 30 days before beginning actual construction, the owner or operator shall meet with the department to discuss the owner's or operator's determination of projected actual emissions for the project and shall provide to the department a copy of the information specified in paragraph *"f."* The owner or operator is not required to obtain a determination from the department regarding the project's projected actual emissions prior to beginning actual construction.

(3) If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in subparagraph (1) to the department. The requirements in subparagraphs (1), (2) and (3) shall not be construed to require the owner or operator of such a unit to obtain any determination from the department before beginning actual construction.

(4) The owner or operator shall:

1. Monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in subparagraph (1);

2. Calculate the annual emissions, in tons per year on a calendar-year basis, for a period of five years following resumption of regular operations and maintain a record of regular operations after the change, or for a period of ten years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit (for purposes of this requirement, "regular" shall be determined by the department on a case-by-case basis); and

3. Maintain a written record containing the information required in this subparagraph.

(5) The written record containing the information required in subparagraph (4) shall be retained by the owner or operator for a period of ten years after the project is completed.

(6) If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the department within 60 days after the end of each year during which records must be generated under subparagraph (4) setting out the unit's annual emissions during the calendar year that preceded submission of the report.

(7) If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the department if the annual emissions, in tons per year, from the project identified in subparagraph (1), exceed the baseline actual emissions, as documented and maintained pursuant to subparagraph (4), by an amount that is "significant" as defined in subrule 33.3(1) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to subparagraph (4). Such report shall be submitted to the department within 60 days after the end of such year. The report shall contain the following:

1. The name, address and telephone number of the major stationary source;

2. The annual emissions as calculated pursuant to subparagraph (4); and

3. Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

(8) A "reasonable possibility" under this paragraph (paragraph 33.3(18)*"f"*) occurs when the owner or operator calculates the project to result in either:

1. A projected actual emissions increase of at least 50 percent of the amount that is a "significant emissions increase," as defined under subrule 33.3(1) (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant; or

2. A projected actual emissions increase that, when added to the amount of emissions excluded under subrule 33.3(1), paragraph "3" of the definition of "projected actual emissions," equals at least 50 percent of the amount that is a "significant emissions increase," as defined under subrule 33.3(1) (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant. For a project for which a reasonable possibility occurs only within the meaning of this numbered paragraph, and not also within the meaning of numbered paragraph "1" of this subparagraph (subparagraph (8)), then the provisions of subparagraphs (3) through (7) do not apply to the project.

g. The owner or operator of the source shall make the information required to be documented and maintained pursuant to paragraph *"f"* available for review upon request for inspection by the department or the general public pursuant to the requirements for Title V operating permits contained in 567—subrule 22.107(6).

ITEM 7. Amend subrule 33.3(20) as follows:

33.3(20) *Conditions for permit issuance.* Except as explained below, a permit may not be issued to any new "major stationary source" or "major modification" as defined in subrule 33.3(1) that would

locate in any area designated as attainment or unclassifiable for any national ambient air quality standard pursuant to Section 107 of the Act, when the source or modification would cause or contribute to a violation of any national ambient air quality standard. A major stationary source or major modification will be considered to cause or contribute to a violation of a national ambient air quality standard when such source or modification would, at a minimum, exceed the following significance levels at any locality that does not or would not meet the applicable national standard:

Significant Impact Levels (SILs)					
	Averaging Time				
	Annual	24 hrs.	8 hrs.	3 hrs.	1 hr.
Pollutant	($\mu g/m^3$)	($\mu g/m^3$)	($\mu g/m^3$)	($\mu g/m^3$)	($\mu g/m^3$)
SO_2	1.0	5	———	25	———
PM_{10}	1.0	5	———	———	———
$PM_{2.5}$	0.3	1.2	———	———	———
NO_2	1.0	———	———	———	———
CO	———	———	500	———	2000

A permit may be granted to a major stationary source or major modification as identified above if the major stationary source or major modification reduces the impact of its emissions upon air quality by obtaining sufficient emissions reductions to compensate for its adverse ambient air impact where the major stationary source or major modification would otherwise contribute to a violation of any national ambient air quality standard. This subrule shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that the source is located in an area designated under Section 107 of the Act as nonattainment for that pollutant.

ITEM 8. Adopt the following **new** subrule 33.3(22):

33.3(22) *Permit rescission.* Any permit issued under 40 CFR 52.21 or this chapter or any permit issued under rule 567—22.4(455B) shall remain in effect unless and until it is rescinded. The department will consider requests for rescission that meet the conditions specified under paragraphs *"a"* and *"b"* of this subrule. If the department rescinds a permit or a condition in a permit issued under 40 CFR 52.21, this chapter, or rule 567—22.4(455B), the public shall be given adequate notice of the proposed rescission. Publication of an announcement of rescission in a newspaper of general circulation in the affected region 60 days prior to the proposed date for rescission shall be considered adequate notice.

a. The department may rescind a permit or a portion of a permit upon request from an owner or operator of a stationary source who holds a permit for a source or modification that was issued under 40 CFR 52.21 as in effect on July 30, 1987, or earlier, provided the application also meets the provisions in paragraph *"b"* of this subrule.

b. If the application for rescission meets the provisions in paragraph *"a"* of this subrule, the department may rescind a permit if the owner or operator shows that the PSD provisions under 40 CFR 52.21 would not apply to the source or modification.

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